

Serial No. 09/654,018 - - - 3

REMARKS

Reconsideration and allowance of this application in light of the foregoing amendments and accompanying remarks is respectfully requested.

PRIOR ART INFORMATION

The Examiner's attention is directed to the discussion above on pages 1 and 2 concerning Item 1 of the Official Action and the Information Disclosure Statements.

THE CLAIM AMENDMENTS

Claims 27-29 have been canceled to simplify the issues and reduce the number of claims. Applicants do not agree with the Examiner's rejection of the claims 27-29.

Those claims have been canceled to simplify the issues and reduce the number of claims only for the purpose of advancing prosecution of the present application.

Applicants have elected to cancel claims 27-29 solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business

Goals (PBG), 65 Fed. Reg. 54603 (September 8, 2000). Those claims may be represented subsequently in a continuation application.

As noted by the Examiner in Item 2 of the Official Action, claim 30 as filed was intended to be dependent on independent claim 27--not on independent claim 1 which had been canceled by preliminary amendment concurrently with the filing of the instant continuation application. Claim 30 is herein amended solely to place it in independent form to explicitly set forth all of the limitations of both the original dependent claim 30 and the appropriate original independent base claim 27.

Therefore, the amendment of claim 30 does not narrow the scope of claim 30 within



Serial No. 09/654,018 - - - 4

the meaning of Festo Corp. v. Shoketsu Kozoku Kogyo Kabushiki Co., 234 F.3d 558, 56 U.S.P.Q. 2d 1865 (Fed. Cir. 2000).

THE OBJECTION TO CLAIM 30 IS OVERCOME

In view of the fact that the Examiner indicated in Item 2 of the Official Action that the original dependent claim 30 should be corrected to be dependent upon independent claim 27, and in view of the fact that claim 30 has been re-written in independent form to include the features of independent claim 27, allowance of claim 30, as amended in independent form, is respectfully requested.

THE DOUBLE PATENTING REJECTION OF CLAIM 30 IS
OVERCOME BY THE FILING OF A TERMINAL DISCLAIMER

In Item 6 of the Official Action, the Examiner has rejected claim 30 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over some claims of the U.S. Patent No. 5,799,810.

Enclosed with this Response is a Terminal Disclaimer with respect to U.S. Patent No. 5,799,810 identified by the Examiner. In Item 5 of the Official Action, the Examiner indicated that a timely filed Terminal Disclaimer may be used to overcome an actual rejection based on a non-statutory double patenting ground. Applicants do not agree that the instant application claim 30 is not patentably distinct from all of the claims of the U.S. Patent No. 5,799,810. Nevertheless, in an effort to expedite prosecution of the instant application, the Terminal Disclaimer is submitted with this Response. In view of the timely filed Terminal Disclaimer, withdrawal of the double patenting rejection of claim 30 is respectfully requested.

Serial No. 09/654,018 -- 5

CLAIM 30 IS ALLOWABLE

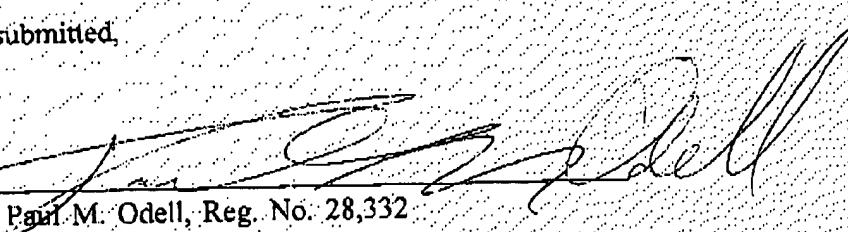
In view of the above discussion, it is believed that claim 30, as amended, is allowable. Accordingly, allowance of claim 30 is respectfully requested.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

Further, it is believed that this entire application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

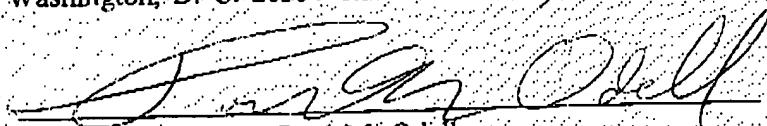
By


Paul M. Odell, Reg. No. 28,332

ROCKEY, MILNAMOW & KATZ, LTD.
Two Prudential Plaza, Suite 4700
180 N. Stetson
Chicago, Illinois 60601
(312) 616-5400

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D. C. 20231 on November 9, 2001.


Paul M. Odell**FAX RECEIVED**

JAN - 9 2002

Group 3700



Serial No. 09/654,018 - - - 6

VERSION WITH MARKINGS TO SHOW CHANGES MADEIN THE CLAIMS:

Claims 27-29 have been canceled.

Claim 30 has been amended as follows:

30. (Once Amended) A fixing ring for fixing a dispenser member on a neck of a receptacle containing a substance to be dispensed, said fixing ring being annular and comprising (1) a bottom portion for fixing said ring to said neck, and (2) a top portion including an opening for receiving the dispenser member to hold it on the container neck, said bottom portion having an exterior peripheral surface, and said top portion including at least one guide wall element extending vertically parallel to the longitudinal, central axis of said ring and extending around the periphery of said fixing ring substantially in line with said exterior peripheral surface of said bottom portion. [The fixing ring in accordance with claim 1 in which] said guide wall element [is] being a continuous annular crown.

